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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SIXTH APPELLATE DISTRICT

MUSU C. BENNETT,

Plaintiff and Appellant,

v.

TETRATECH EC, INC., et al.,

Defendants and Respondents.

H034558

(Santa Clara County

Super. Ct. No. CV085181)

**I. STATEMENT OF THE CASE**

Plaintiff Musu C. Bennett filed a complaint against defendants TetraTech EC, Inc., Larry Spencer, and Bob Wells, asserting claims for sexual harassment, gender discrimination, racial harassment, retaliation for complaining about defendants' conduct, failing to take adequate steps to eliminate harassment and discrimination, assault and battery, invasion of privacy, intentional infliction of emotional distress, negligent infliction of emotional distress, negligent supervision, violating public policy, and violating sections of the Business and Professions Code.<sup>1</sup> After a court trial, the court rejected all of her claims, decreed that she take nothing by way of her complaint, and entered judgment for defendants.

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<sup>1</sup> We glean the nature of plaintiff's complaint from the trial court's tentative statement of decision because the record does not include the complaint.

On appeal from the judgment, Ms. Bennett claims the trial court erred in failing to consider her evidence, deferring to defense counsel, and discounting her arguments.

We affirm the judgment.

## II. DISCUSSION

Ms. Bennett represented herself below and does so on appeal. Regardless of her level of legal acumen, she is held to the same restrictive rules of procedure and evidence as an attorney—no different, no better, no worse. (*Nelson v. Gaunt* (1981)

125 Cal.App.3d 623, 638-639; *Monastero v. Los Angeles Transit Co.* (1955)

131 Cal.App.2d 156, 160-161.)

“In the absence of a contrary showing in the record, all presumptions in favor of the trial court’s action will be made by the appellate court. ‘[I]f any matters could have been presented to the court below which would have authorized the order complained of, it will be presumed that such matters were presented.’ ” (*Bennett v. McCall* (1993)

19 Cal.App.4th 122, 127.) Moreover, we presume that a judgment or order of the trial court is correct, and, therefore, the appellant bears the burden to show not only that the trial court erred, but also that the error was prejudicial in that it resulted in a miscarriage of justice. (Cal. Const., art. VI, § 13; Code Civ. Proc., § 475; *Cassim v. Allstate Ins. Co.* (2004) 33 Cal.4th 780, 800-802; *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564; *Paterno v. State of California* (1999) 74 Cal.App.4th 68, 105-106.) “ ‘[A] “miscarriage of justice” should be declared only when the court, “after an examination of the entire cause, including the evidence,” is of the “opinion” that it is reasonably probable that a result more favorable to the appealing party would have been reached in the absence of the error.’ [Citation.]” (*Cassim v. Allstate Ins. Co.*, *supra*, 33 Cal.4th at p. 800.)

To satisfy his or her burden on appeal, the party challenging a judgment on appeal must provide an adequate record to assess alleged error. (*Ketchum v. Moses* (2001) 24 Cal.4th 1122, 1140-1141.) If the record is inadequate, the appellant defaults, the issues raised are resolved against him or her, and the decision of the trial court should be

affirmed. (*Gee v. American Realty & Construction, Inc.* (2002) 99 Cal.App.4th 1412, 1416; *Hernandez v. California Hospital Medical Center* (2000) 78 Cal.App.4th 498, 502.)

Here, Ms. Bennett claims the court failed to consider her evidence, deferred to defendants' attorney, and discounted her arguments. The record on appeal contains only a clerk's transcript. On its face, the clerk's transcript does not support her claims or even provide an adequate basis to evaluate them. Significantly, Ms. Bennett failed to include a reporter's transcript of the pretrial proceedings, the trial itself, and post-trial proceedings. Those transcripts would be essential in determining what happened below, whether the court made evidentiary errors, abused its discretion, or was guilty of misconduct. In short, without such transcripts, Ms. Bennett cannot establish error, let alone reversible error. (E.g., *Walker v. Superior Court* (1991) 53 Cal.3d 257, 273-274 [lack of reporter's transcript of pertinent hearing precluded addressing merits of claim of error]; *Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1295-1296 [same]; *In re Kathy P.* (1979) 25 Cal.3d 91, 102 [same].)

The inadequacy of appellate record is matched by the inadequacy of Ms. Bennett's appellate brief, whose deficiencies provide an equally compelling reason not to reach the merits of her claims.

On appeal, an appellant must present an analysis of the facts and legal authority on each point made and support arguments with appropriate citations to the material facts in the record. If he or she fails to do so, the argument is forfeited. (*Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849.)

In her brief, Ms. Bennett fails to provide any citations to the record in support of her factual statement. She fails to challenge any particular ruling or factual determination by the court. She does not argue that any ruling was legally erroneous. She does not claim that the court's determinations are not supported by substantial evidence. And, she provides no analysis or discussion tracing a course of logical or legal reasoning by which

she arrived at the conclusions she wants us to adopt. Under the circumstances, we may treat all of her claims as forfeited. (*Berger v. California Ins. Guarantee Assn.* (2005) 128 Cal.App.4th 989, 1007; *Exchange v. Collins* (1994) 30 Cal.App.4th 1445, 1448; [“[P]arties are required to include argument and citation to authority in their briefs, and the absence of these necessary elements allows this court to treat appellant's [contentions] as waived”]; *Dills v. Redwoods Associates, Ltd.* (1994) 28 Cal.App.4th 888, 890, fn. 1 [appellate court “will not develop the appellants’ arguments for them”]; Cal. Rules of Court, rule 8.204(a)(1)(B) [each point in a brief must be supported by “argument and, if possible, by citation of authority”]; see also Eisenberg et al. Cal. Practice Guide: Civil Appeals and Writs (The Rutter Group 2008) ¶ 9:21, p. 9-6 (rev. # 1 2008) [“appellate court can treat as waived any issue that, although raised in the briefs, is not supported by pertinent or cognizable legal argument or proper citation of authority”].)

In sum, because the Ms. Bennett has failed to provide adequate record and because her appellate brief is deficient, she cannot, and does not, satisfy her burden to show reversible error.

### **III. DISPOSITION**

The judgment is affirmed. Defendants are entitled to their costs on appeal. (Cal. Rules of Court, rule 8.278(a)(1) & (2).)

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RUSHING, P.J.

WE CONCUR:

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PREMO, J.

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ELIA, J.